IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Crl.Rev.Pet.No. 89 of 1999()

CRL.A.NO.191/1995 OF I ADDL.SESSIONS JUDGE, ERNAKULAM
C.C.NO.177/1993 OF JFCM-II, KOCHI

REVN. PETITIONER:

MOHAN, S/O.NANU, KIZHAKKEDATH VEEDU,
EAST SIDE OF VALAVU OF INTOTHORE,
VILIYIL, HEALTH CENTRE HOSPITAL,
NEENDAKARA, KOLLAM.

BY ADV. SRI.SHAHUL HAMEED MOOPAN

RESPONDENTS:

STATE OF KERALA, (C.I. OF POLICE
CITY TRAFFIC POLICE STATION, KOCHI CITY
- CRIME NO.1274/91)
REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.315/1999 IN CRL.R.P.NO.89/1999

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

21/11/2007

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K.R.UDAYABHANU, J.

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Crl. R.P.No.89 of 1999-C

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Dated this the 21st day of November, 2007

O R D E R

The revision petitioner is the accused in C.C.No.177/1993 in the file of the Judicial Magistrate of the First Class-II, Kochi, who stands convicted for the offences under Sections 279 and 304A I.P.C and also for the offence under Rule 46(1)(a) of the Motor Vehicles Rules read with Section 177 of the Motor Vehicles Act and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for three months for the offence under Section 279 I.P.C and also sentenced to undergo rigorous imprisonment for one year and also to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for three months for the offence under Section 304A I.P.C and sentenced to pay a fine of Rs.100/- and in default to undergo simple imprisonment for seven days for the offence under Rule 46(1)(a) of the M.V.Rules read with Section 177 of M.V.Act.

2. The prosecution case is that on 17/12/1991 at about 11.30 p.m the accused drove mini lorry bearing Reg.No.KL2/2138 in a rash and negligent manner so as to endanger human life through Edakochi-Thoppumpady road from east to west without having valid badge and hit

on a motorcycle bearing Reg.KL.7-B-4310 that came from the opposite direction as the result of which both the rider and pillion rider died.

3. The counsel for the revision petitioner has only sought for modification of sentence. It is submitted that about 17 years have elapsed since the date of occurrence and that so far the petitioner was facing the ordeal of criminal proceedings and that the earnings of the revision petitioner is the sole means of livelihood of his family. In the circumstances and considering the long lapse of time, the sentence imposed for the offence under Section 304A I.P.C is modified to imprisonment till the rising of the court and to pay a compensation of rupees twenty-five thousand each to the legal representatives of the deceased and in default to undergo simple imprisonment for six months each. He is also sentenced to pay a fine of Rs.1,000/- for the offence under 279 I.P.C and in default to undergo simple imprisonment for two months. The sentence imposed for the violation of Rule 46(1)(a) of the M.V.Rules read with Section 177 of M.V.Act is sustained. The revision petitioner is granted six months time to remit the fine and compensation amounts. He shall appear before the Judicial Magistrate of the First Class-II, Kochi, on 21/05/2008 to receive the sentence. The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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